



David B. Cohen
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CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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CONSERVATION COMMISSION

MEETING MINUTES

September 24, 2009

Beginning at 7:30 p.m.

City Hall, Rm 209

Meeting opened approximately 7:35 p.m.

MEMBERS PRESENT: R. Matthews, Acting Chair, D. Dickson, D. Green, and J. Hepburn

MEMBERS ABSENT: I. Wallach, S. Lunin

MEMBERS OF THE PUBLIC: See attached sign-in sheet

First Hearing out of order as a favor to applicant/owner, who is ill.

90 Boulder Rd. – RDA – Re-locate and enlarge deck in riverfront and bordering land subject to flooding of South Meadow Brook. “Deck” described by owner is really a set of steps. Removal of concrete from site will offset proposed fill for footings.

Report: No compensatory storage needed. I would have signed off on a permit for this if the owners had been more clear on what was proposed. Recommend grant negative determination #3 with no conditions.

Meeting: Owner Pam Adelstein present and describes the project is just moving a set of (covered) steps over as kitchen is remodeled. Environmental Planner says that Negative determination #2 (not #3) is in order. **Motion by D. Green to issue Negative**

Determination #2. D. Dickson seconded. Vote: All approved. Motion passed.

Flowed Meadow Phase III: Update and recommendation by Alice Ingerson, CP Planner and by Environmental Planner, that project does not seem to have neighborhood support that we thought it did, and it would be difficult and expensive to build.

Report: Investigation of the proposed project, to construct a boardwalk from Lexington St. around the landfill and through the wetland to Wabasso St., found several issues. This proposed project 1) has a pinch-point that would require an easement from an abutter to construct the path, 2) does not seem to have much interest from Burr School administration or the PTO, and 3) a path through the wetland (to stay away from the landfill cover) would be very expensive. An alternative plan, now that the city owns 30 Wabasso, is to try to improve the ‘road’ and the 30 Wabasso site for access from Riverview Road.

Meeting: Alice Ingerson and Anne Phelps described prior work in Flowed Meadow. There is an existing dirt road over a sewer easement from Riverview Avenue that connects to the actual Wabasso St. layout. We would like to explore grading that and/adding a boardwalk in the roadbed for ADA-accessibility. The Commission had sponsored a proposal to the CPA for a boardwalk design around the landfill, but the money has not been spent. Phase II, a stone-dust pathway from Auburndale Park to the pump house was completed, and a letter from Martha indicated that “left-over” money from that project might be used to create a path in from Riverview.

Anne and Alice should ask the ward Aldermen to participate and schedule another community meeting. We should also talk to the Newton Conservators. Dan recommends we consult other, absent members. Roger recommends we defer to later date when can go back and look at the history and see whether we could ask to re-direct these funds. Action deferred.

CSX Vegetation Management Plan RDA – ROW spraying of herbicides in riverfront and buffer to bank of the Charles River, in bordering vegetated wetlands, and possibly floodzone, and in an area proximal to a public drinking water supply.

Report: Spraying was done this year and the 5-yr management plan expires. I have asked the applicant to verify there is no flood zone (none is indicated on their plan, although the GIS suggests there is flood zone nearby). The regulations pertaining to this are at 10.03(6)(a)-(c). They may spray provided they have properly identified and delineated the wetlands, and provided the spraying will not alter a wetland resource area.

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Meeting: Stephen Herzog, AMEC, present representing CSX. MA Right of Way Management Plan required every 5 yrs. DAR website has list of practices that must be used, including list of approved herbicides. Manual weed removal is employed when spraying herbicides not allowed. GIS layer indicates there is floodplain adjacent to the elevated track, but no information provided and there has not been a site visit to confirm whether there is floodplain. Planner recommends: Positive #1 (on resource area) and a Negative #2, provided subsequent site visit confirms out of flood zone. Railroads not required to file NOI, provided the Commission affirms their wetland delineation. If floodplain present, a new plan should be submitted. Commission asked Mr. Herzog if he is willing to continue for a site visit. He agreed to continue to October 22nd meeting.

N. Richardson arrived approximately 8:15 p.m..

386 Quinobequin Rd. – NOI – Install drain line partly within the 200 ft riverfront to the Charles and entirely within flood zone (see 310 CMR 10.57(1), 10.57(4), and 10.58) to drain basement.

Report: MA DEP comments indicate not a good idea if oil tank is stored in basement – EcoTec reports there is no oil tank in basement. Could water go to BVW, instead? Would save owner money, and filter water through more wetland. DEP regulations would allow it (unpolluted ground water seeping into basement is considered clean water – see 10.04 under Illicit Discharge), but contractor (EcoTec) says water would filter back to basement – ask Engineer. But, this strategy not a good one for overall reduction in flood control. The rationale for the requirement for compensatory flood storage in bordering land subject to flooding is that loss of that flood capacity increases down-stream flooding. Homeowner now pumping into the street, which creates safety hazard. However, pumping water from flood zone to storm drain which empties directly to lower elevation along riverfront and BVW runs counter to storm water regulations (see 10.05(6)(b) and city Ordinance Sec. 22-22) for flood zone by increasing peak flow rates during flood periods.

Meeting: Owner, Cecily Grable, surveyor, Verne T. Porter, and John Rockwood, EcoTec, were present to describe the project. Old sewer line (CSO) was previously used to pump out basement, but cannot be used now. Owner has a finished basement that has been rented, but not currently. After further discussion with Engineering, Verne Porter has agreed to do another test pit and provide location of test pit on plan and a soil log. Planner recommends issue OOC with condition: Submit new plan showing installation of a small leaching system prior to connecting to city drainage. **Motion by D. Green to issue OOC with standard conditions and special, ongoing condition of no storage or use of hazardous material, including oil tank, in basement. A leaching pit is approved if approved by Engineering. Second by D. Dickson. Vote: D. Dickson, D. Green, J. Hepburn, and R. Matthews voted “aye.” N. Richardson abstained. Motion passed.**

2345 Commonwealth Ave. CR/TPG Newton Hotel, LLC –NOI - repair of damaged drainage structures and repair of sink-hole, reconstruction of retaining wall between parking lot and hotel, addition of concrete pad and brick walk near loading area in front of Comm. Ave., erosion control and repair and landscaping within the 200 ft riverfront area to the Charles River.

Report: Questions about proposal need to be answered & will try to address prior to meeting. Specifically, proposal for new CB near loading area was required in previous OOC – ask owner/engineer whether installation of CB in this area is unfinished from prior OOC. If so, should be done under prior OOC. Notes on plan (C-3, Note 2) say all CBs to be upgraded but NOI text says no upgrades. This is an old system and does not fall under new requirements for storm water systems. Nor, is the work extensive enough to be considered re-development; it is repair only. Work on retaining wall near hotel needs more detail, especially re erosion and sediment control. However, sinkhole repair (only partly w/in riverfront) and overland erosion between lower end of parking lot near Norumbega Park and the headwall is clearly caused by lack of maintenance to the stormwater management system, including long-undetected broken pipe and clogged storm drains. Commission should ask for mitigation, and stormwater situation should be improved over prior situation. At a minimum, ask for an Operations and Maintenance Plan for existing system, with logs, work orders, and/or other proof of maintenance to be furnished either periodically or on demand as an on-going condition. Stormwater standards at 10.05(6)(k)-(q) and see appropriate definitions under 10.04, especially ‘redevelopment’.

Meeting: Mark Bacon, CR/TPG Newton Hotel, LLC, Mark Varrell and Christopher Nowak of VHB, and Wayne Ward, Project Manager, TPG Construction, were present to describe the project. New plan submitted in response to comments from Planner and Engineering prior to meeting. Applicant says will retrofit all catch basins with oil/debris traps as shown on plan. Work on retaining wall near hotel is redevelopment in riverfront and will remove about 290 sf of pavement (to be landscaped). The latter may be considered partial or complete mitigation for redevelopment, since there will be a net decrease in impermeable surface due to reconfiguration of plant islands. New plan shows re-grading and landscape plantings, “riverfront area natural planting zone” around eroded area at bottom of parking lot. VHB engineer says the Operations and Maintenance plan submitted requires inspection of drainage system 4 times annually and cleaning each catch basin when sediment exceeds 6 in or at least once per year. Recommend approval w/conditions: 1) Hotel shall establish an O&M Plan for the drainage system, have it checked at least annually for sediment

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build up and clean as needed, and make maintenance logs available to the Environmental Planner within one (1) week of a written request. 2) Provide new plan re-labeling "riverfront area natural planting zone plan" as shown on C-5 Landscape Plan, revised 9-23-09, as "mitigation area," specifying exact location, square footage, planting layout with number, species and size of native shrubby plants to be planted. The latter should be approved by Planner and remain an on-going condition. [Revised] Engineering comments recommend some form of subsurface stormwater recharge system to reduce both volume and velocity of the discharge. Applicant responds that it is too costly for them to do so. Commission wants on-going condition of snow removal plan that removes snow to Norumbega Park side of parking lot as much as possible, and out of riverfront area, rather than plowing toward and stockpiling snow at bottom of parking lot.

Motion by N. Richardson to issue OOC with standard conditions plus special on-going conditions: applicant to provide maintenance logs for drainage system upon one week's written notice and no snow storage on the north (lowest side of the parking lot. Owners shall submit new plan for snow treatment that is subject to approval and showing re-labeled "riverfront area natural planting zone plan" as mitigation area (to compensate for violation of failure to maintain drainage system thus causing erosion), installing markers to delineate mitigation area. Second by D. Dickson. Vote: All in favor. Motion passed.

15 Marla Cir. – Request to extend OOC- DEP 239-544 – Demolition of house, construction of new house, driveway, grading, lawn, landscaping and mitigation area in riverfront. Patio, mitigation area not completed and no letter from MWRA re planting in MWRA's easement area.

Report: The request is for 2 more years so mitigation can be re-planted and become established, and patio to be finished. There is a real question whether owners have control of area proposed for mitigation, and whether the Commission can require/allow mitigation in the MWRA easement. Special condition # 28 in original Order required permission from MWRA to plant in its easement, and we still do not have anything on record from

MWRA re planting in this easement. Also, Engineering and I also believe (examining bounds) that area under trees and along fence next to river are not really available for mitigation, as roots and crown areas compete with and prevent easy establishment of new plantings on one side, and wild grape is growing over almost everything on river side. Plants are not planted as recommended (inter-plant distance closer than recommended) and owner's failure to reach monetary agreement with former landscaper is not considered a reason to extend an OOC. See 310 CMR 10.05(8), regarding extension of OOC, specifically see (b), and see redevelopment in riverfront at 10.58(5), specifically see (g) & (h).

Meeting: John Rockwood, EcoTec, reported the area has been re-planted and the owners are seeking a letter from MWRA regarding the easement. The owners request the OOC be extended for two years.

Motion by D. Dickson to issue a two-year extension. Second by D. Green. Vote: All in favor. Motion passed.

107 Adeline Rd. –RDA –Reconstruction and expansion of upper level porch in the 100 ft buffer to bank of Paul Brook.

Report: Some of lot is in flood plain but no work proposed in flood plain. Work is minor and recommend a negative determination #3 with condition of erosion and sediment control as proposed (haybales and silt fence to be entrenched).

Meeting: Since new installation of piers for deck is out of flood plain, project only needs erosion and sediment control to protect bank and water quality of Paul Brook. **Motion by D. Dickson to issue Negative Determination #3 with proposed erosion and sediment control. Second by J. Hepburn. Vote: All approved. Motion passed.**

3 Fuller Avenue – Amended NOI – Connect to sewer service and restoration plan for prior violation and proposed alterations to buffer zone and wetlands.

Report: Applicant planned to install sewer manhole on the property, but engineering said new hook-up is required. Commission spoke with contractor and suggested he slip-line the sewer so as not to disturb wetlands and have to go off property boundary. Engineering required new line to sewer main (pipe too small diameter), necessitating disturbance to buffer zone and possibly wetlands in same area owner created prior violations. Therefore, applicant has submitted new plan for connection to sewer and restoration to all altered areas. Engineering said they will allow/require applicant to hook up to sewer – and city has sewer easement on paper street adjacent to property. The plan has a number of revisions since the approved plan dated July, 2007. I suggested that if property owner/contractor can go onto paper street for sewer hook-up and disturbance of wetlands, then property owner can restore prior disturbed areas (Law Dept. agrees), to include: 1) Removal of hostas and daylilies from stream bank and plant w/native shrubs, 2) planting native shrubs in mitigation areas per plan submitted by wetland consultant for original NOI, 3) move shed back onto property, 4) remove fence and seed garden area with wetland seed mix, 4) cease mowing in all areas beyond property boundary in wetland and buffer zone. Planner recommends this mitigation be performed prior to or as work on sewer performed, in addition to planting area disturbed by trenching for sewer with small woody vegetation (Clethra alnifolia would be appropriate). Engineering also has comments.

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Meeting: Owners Joe and Sandra Russo and Michael Rowman, Contractor were present to describe the project. R. Matthews asked about updated engineering comments, which included moving proposed stockpile so that it moved further away from erosion and sediment control fence and more toward house. **Motion by D. Green to issue an amended Order of Conditions with additional conditions that shed be shown to be entirely on property, whether it needs to be physically moved, or the plan needs to be corrected, and that mitigation measures, including: Removal of hostas and daylilies from stream bank and plant w/native shrubs, planting native shrubs in mitigation areas per plan submitted by wetland consultant for original NOI, remove fence from garden area and plant with wetland seed mixture, cease mowing in all areas beyond property boundary in wetland and buffer zone, and plant sweet pepperbush (Clethra alnifolia) in trench area after new sewer line installed. Second by D. Dickson. Vote: All in favor. Motion passed.**

92 Bullough Park – NOI – Demolish existing house and construct new single-family house partly within the 100 ft buffer zone to bank of Bullough Pond.

Report: Site is very high, and continues to slope up at rear of property. There is a retaining wall around front of property and side of driveway. Plan raises questions about drainage onto abutter (to left, as face front of house). A pre-existing low retaining wall along property boundary may be overtopped by new retaining wall in side setback; pine trees and retaining wall appear to be on the applicant's property/on the property boundary as measured on ground and using plan scale. Disturbance to pre-existing wall and trees possible. A number of questions on plan need to be addressed before final recommendations. Proposal to move driveway away from property line, removing high retaining wall and re-locating it, and constructing new retaining walls at side of house in ~ 4 ft increments with fill. No infiltration for roof is shown on plan. Driveway very wide. No test pits for infiltration as shown under driveway. Proposed work is likely to affect Bullough's Pond/bank either during construction or long-term because of elevation and steepness of site – potential for erosion and storm-water run-off issues must be addressed. Engineering notes several issues. Applicant is not owner, and owner has not signed application. Hopefully, much of this will be addressed prior to meeting.

Meeting: Owner Ernest Rogers brought in deed (closed on house today) and was represented by Joe Porter, surveyor. New plan received with Environmental Planner's questions addressed, including erosion and sediment control. Planner concerned that two back-to-back storms could easily overwhelm the driveway infiltration galleys and flood Bullough Park (lot is steeply pitched toward the street), and would like to see the system broken up so that part of the roof run-off is re-directed to infiltration in the front yard. All other issues in Conservation jurisdiction have been addressed. **Motion by D. Green to issue an Order with the standard conditions and the splitting of the roof runoff so that part goes to a galley on the other side of the house. N. Richardson seconded. Vote: All in favor. Motion passed.**

Violations --Updates

(Late Add) **Houghton Garden paint violation** – student mitigation

Meeting: The Commission agreed the Planner shall send a letter to the students to relieve them of any further obligation.

76 Webster Park – Habitat – utility poles in CR area – E-mail exchange with Lark Palermo of Habitat said they expect to have all problems corrected shortly and within the 90-day period of the temporary certificate of occupancy, rapidly nearing.

Meeting: Planner reported that she will make a final site visit before any sign off for the Certificate of Occupancy from ISD.

35 Kingswood Road – alteration of bank of Charles – restoration area planted with 20 new lowbush blueberry bushes. Will re-check spring of 2010.

15 Harwich Road –Violation –Have asked DEP to assist. In a recent e-mail exchange, DEP analyst informed me she has not had time to pursue this violation.

3 Fuller Avenue – has proposal for restoration (see above).

1203&1211 Washington Street

93 Andrew Street

Certificates of Compliance

61 Verndale Road – As-built and “in substantial compliance” letter submitted for addition and deck in flood zone. Lot is not re-stabilized (no turf, mulch, etc.) but is so flat that run-off very unlikely. I have verbally advised owner that if loam is brought in, he must remove an equivalent amount of material so that the grade does not change.

Meeting: **Motion by D. Green to issue a Certificate of Compliance. Second by N. Richardson Vote: D. Green, J. Hepburn, N. Richardson and R. Matthews voted “aye.” D. Dickson abstained. Motion passed.**

32 Olde Field Road – As-built and letter from engineer certifying work; mitigation area looks fine.

Meeting: **Motion by D. Dickson to issue Certificate. J. Hepburn seconded. Vote: All in favor. Motion passed.**

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Lot 8 Kessler Road - As-built and letter from engineer certifying work; all areas re-stabilized.

Meeting: Motion by D. Dickson to issue Certificate with continuing conditions. N. Richardson seconded. Vote: All in favor. Motion passed.

53 Kingswood Road – Very old OOC seeking COC for sale. As-built plan and letter from engineer certifying work for an addition.

Meeting: Motion by D. Dickson to issue Certificate with continuing conditions. N. Richardson seconded. Vote: All in favor. Motion passed.

126 Selwyn Road - As-built and letter from engineer certifying work; mitigation area looks fine.

Meeting: Motion by D. Dickson to issue Certificate with continuing conditions (#32,33,34). N. Richardson seconded. Vote: All in favor. Motion passed.

Announcements & General Business:

Kessler Woods Extension – need signatures for corrected copy.

Open Space Plan – considerations and member to work on committee and with Conservators?

Nahanton Woods – Judy– report on last meeting.

Meeting: Judy reported that map had been found showing boundary of CR goes to the edge of the road, so acting assumption that Condominium Association owns to the edge of the road. There will probably not be another meeting until next year. Mr. Wasserman hired landscapers to trim and clean up along the edge of Nahanton Street.

July 23, 2009 Meeting Minutes for approval.

Meeting: Motion by J. Hepburn to accept the July 2009 meeting minutes. Second by D. Green. Vote: All approved. Motion passed.

Crystal Lake Path – Work started the first week in September & with my permission, will go beyond bench in Levingstone Cove to repair eroded portion of stone dust path and bank. Will be completed prior to meeting.

Management Plan update - Dan Green asked everyone to review and comment by email, if necessary.

Outstanding issues – discussion

Rules/policy/procedure for Alternate members (?)

Meeting: D. Dickson said he had drafted a policy and emailed it to the members. He will work on re-writing by-laws for alternates.

Performance Bonds (?) – in light of last MACC newsletter article

Non-criminal ticketing – update — Q: Does the Commission wish to ticket under the Watershed/Flood Zone only?

Other

Meeting adjourned at 10:45 p.m.

Anne Phelps, Sr. Environmental Planner

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